IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

THURSDAY, THE 11TH JANUARY 2007 / 21ST PAUSHA 1928

WP(C).No. 1348 of 2007(I)

PETITIONER:

M/S.COCONUT LAGOON, A UNIT OF
M/S.HOTEL AND ALLIED TRADES, PRIVATE LIMITED,
CASINO HOTEL, WILLINGDON ISLAND,
KOCHI-3, REPRESENTED BY ITS EXECUTIVE OFFICER,
MR.MICHAEL DOMINIC.

BY ADV. SRI.JOSEPH MARKOSE
SRI.MITHUN MARKOS

RESPONDENTS:

1. THE COMMERCIAL TAX OFFICER (WORKS CONTRACT), COMMERCIAL TAXES, KOTTAYAM.

2. THE DEPUTY COMMISSIONER (APPEALS), KOLLAM.

3. THE DEPUTY TAHSILDAR (RR), KOTTAYAM.

BY GOVT.PLEADER SRI SOJAN JAMES

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 11/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.R.RAMAN,J.

W.P.(C).NO.1348 OF 2007

Dated this the 11th day of January, 2007

JUDGMENT

Petitioner is challenging the interim order passed in a luxury tax matter for the assessment years 1995-96 to 2002-03. Earlier the petitioner has approached this Court, at a time when the stay was declined on the assumption that he has no power to grant stay. This Court clarified the matter by Ext.P7 judgment stating that even as per the rules, the Deputy Commisisoner (Appeals) has got the power to grant stay and directed him to pass fresh orders. Ext.P8 is the fresh order thereafter passed by which the petitioner was required to pay 50% of the disputed amount. According to the petitioner, an amount of Rs.27 lakhs is due and payable by way of

refund and he has filed applications for refund of the same as evidenced by Exts.P4(a) to P4(e) and if the amount is also taking into consideration, the liability will stand reduced to Rs.67 lakhs and the Deputy Commissioner (Appeals) has asked the petitioner to pay 50% of the disputed amount of Rs.94 lakhs.

2. Heard the learned Government Pleader also.

3. In the factual situation, there will be a direction that in case the petitioner pays an amount of Rs.33,00,000/- (Rupees thirty three lakhs), then the recovery of the balance amount will stand stayed until the disposal of the appeals by the Deputy Commissioner (Appeals) and to that extent Ext.P8 stands modified. The said amount shall be paid by the

petitioner within a period of three weeks, failing which, the order will stand automatically cancelled.

Writ Petition is disposed of as above.

s

P.R.RAMAN,
Judge.

kcv.